

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control 580 Department or Agency Mental Health  
Rule No. Chapter 580-5-30  
Rule Title: Intellectual Disabilities Services  
       New   X   Amend        Repeal        Adopt by Reference       

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?        NO       

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?        NO       

Is there another, less restrictive method of regulation available that could adequately protect the public?        NO       

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?        NO       

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?        NO       

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?        YES       

Does the proposed rule have an economic impact?        NO       

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Debbie L. Powell

Date 10/19/11

REC'D & FILED

OCT 19 2011

LEGISLATIVE REFERENCE SERVICE

**Alabama Department of Mental Health**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama Department of Mental Health

**RULE NO. & TITLE:** Chapter 580-5-30 Intellectual Disabilities Services

**INTENDED ACTION:** Amend

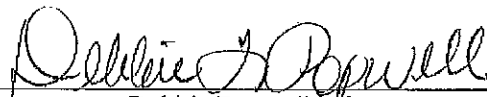
**SUBSTANCE OF PROPOSED ACTION:**  
This rule defines all Intellectual Disability Services

**TIME, PLACE, MANNER OF PRESENTING VIEWS:**  
All interested persons may submit data, views, or arguments in writing to Debbie Popwell, Director, Office of Certification, Alabama Department of Mental Health/ Mental Retardation, 100 North Union Street, Montgomery, Alabama 36130 by mail or in person between the hours of 8:00AM and 5:00PM, Monday through Friday, or by electronic means to [debbie.popwell@mh.alabama.gov](mailto:debbie.popwell@mh.alabama.gov) until and including Dec 5, 2011. Persons wishing to submit data, views, or arguments orally should contact Ms. Popwell by telephone at (334) 353-2069 during this period to arrange for an appointment.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**  
Dec. 5, 2011

**CONTACT PERSON AT AGENCY:**  
Persons wishing a copy of the proposal may contact  
Debbie Popwell  
Department of Mental Health/Mental Retardation  
100 North Union Street  
Montgomery, Alabama 36130  
(334) 353-2069

A copy of the proposed change is available on the department's website at <http://mh.alabama.gov>  
Click on Commissioner's Office and then Certification Administrative to find code with changes.



Debbie Popwell, Director  
Office of Certification

ALABAMA DEPARTMENT OF MENTAL HEALTH  
AND MENTAL RETARDATION  
MENTAL RETARDATION DIVISION OF DEVELOPMENTAL DISABILITIES  
ADMINISTRATIVE CODE

CHAPTER 580-5-30  
MENTAL RETARDATION INTELLECTUAL DISABILITIES SERVICES

TABLE OF CONTENTS

580-5-30-.01	Purpose
580-5-30-.02	Method Of Delivery
580-5-30-.03	Assurances
580-5-30-.04	Record Management
580-5-30-.05	Abuse/Neglect/Exploitation
580-5-30-.06	Service System
580-5-30-.07	Reserved (Repealed 3/11/05)
580-5-30-.08	Community Placement
580-5-30-.09	<u>Mental Retardation Intellectual</u> <u>Disabilities Community Programs</u>
580-5-30-.10	Contracted Services
580-5-30-.11	Research
580-5-30-.12	<u>Reserved Program</u> <u>Enrollment/Participation in DMH</u> <u>Medicaid Waiver Programs</u>
580-5-30-.13	<u>Eligibility and Level of Care for DMH</u> <u>Medicaid Waiver Programs</u>
580-5-30-.14	<u>Free Choice of Providers within DMH</u> <u>Medicaid Waiver Programs</u>

580-5-30-.01     Purpose.

(1)            The purpose of the Alabama Department of Mental Health and ~~Mental Retardation~~ (DMH/MR) Division of ~~Mental Retardation Developmental Disabilities~~ (DDDMR) is to insure that a continuum of services and supports based on identified individual needs, choices, and desires of the individual are developed, implemented, enhanced, and coordinated for people the ~~mentally retarded~~ and their families in the State of Alabama. All appropriate resources will be utilized to the maximum extent possible by joining with other service agencies, relatives, individuals, and interested groups.

(2) The (DMH/MR) Division of ~~Mental Retardation~~ Developmental Disabilities recognizes the worth, dignity, and rights of all citizens with mental retardation in the State of Alabama and in that each should be provided with a continuum of services and supports which foster achievement and maintenance of functional skills and abilities to the maximum potential of human functioning.

**Author:** Division of ~~Mental Retardation~~ Developmental Disabilities, (DMH/MR)

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.02 Method Of Delivery.** The Division of ~~Mental Retardation~~ Developmental Disabilities provides residential care and treatment through a state-operated developmental center and through a Regional Service Delivery System which includes the office of Regional Community Services, Comprehensive Support Teams, and services contracted with public and private organizations.

(1) Regional Community Services is a major division of the service delivery system and has as its objectives the following:

(a) supporting and coordinating generic and specialized services available through community agencies.

(b) coordinating service and support needs between the state-operated developmental center and community service agencies.

(c) assisting in the development of community-based programs and supports.

(d) planning, in coordination with the applicable 310 agency and/or other provider agencies, implementing and monitoring of contracted services. Regional Community Services operates according to the philosophy that each individual should have be granted the opportunity to live-develop in an environment with only the supports necessary that is the most independent that is possible and feasible for the individual to be successful which are and that is chosen by the individual and their family or guardian or advocate.

(2) Comprehensive Support Services Teams. The Alabama DMH/MR Division of Developmental Disabilities Mental Retardation (DDDMR), provides a comprehensive array of specialized services for individuals in the State of Alabama who meet criteria for services, particularly those who do not receive services in the State-operated developmental center.

(a) Comprehensive Support Services teams assess the need for and assist with providing an array of supports to individuals who require specialized services. Additionally, these teams assist providers with developing internal capacity related to these and other specialty areas.

(b) Comprehensive Support Services team will, at a minimum, consist of the following personnel as described by the current personnel classification system: A doctoral level Ph.D. Psychologist who serves as the team leader and is responsible for coordinating the development and maintenance of procedures and protocols (standardized across teams) addressing all activities of the team, including the intake process; Psychological Associates; a Psychological Assistants; a Primary Care Physician; a Psychiatrist; a Dentist; and, a Habilitation Treatment Coordinator/ Qualified Intellectual Disabilities Mental Retardation Professional (QIDMRP).

(c) Individuals Served: Individuals who meet the American Association on Developmental and Intellectual Disabilities (AIDD's) Mental Retardation's (AAMR's) definition of having an Intellectual disability mental retardation and present issues which require diagnostic or treatment consultation are eligible for services provided by the Comprehensive Support Services teams.

(d) Services Provided: Specialized services, consultations, evaluations, and training services are provided in a manner that is designed to increase the capacity and expertise of agency or organization personnel serving the individual consumer, as well as to assist the individual consumer, and are organized by specialty; however, Comprehensive Support Services team member's activities overlap specialty areas requiring interaction in an inter-disciplinary manner. Therefore, any of the activities in the areas of behavioral services, psychiatric consultation services, medical consultation services, and dental services may require the participation of multiple team specialists.

(e) Accessing Services: In order to access Comprehensive Support Services, provider agencies and/or families should contact their Regional Community Services Office. The Directors of these offices implement established procedures for processing and prioritizing referrals.

(3) State-Operated Developmental Center. Individuals with an intellectual disability ~~mental-retardation~~ who reside in the State of Alabama, and who meet the criteria for admission to a developmental center, will be admitted for evaluation for services (or as required by a Court Order), or may be admitted for short-term respite services or crisis stabilization services.

(a) Admission Criteria: Individuals who meet the following specific criteria may be eligible for residence in the developmental center/Intermediate Care Facility ~~for Persons with Mental-Retardation~~ (ICF/MR) for the provision of identified services and supports:

1. The individual has significantly sub-average general Developmental functioning (IQ lower than 70 on a standardized intelligence test), existing concurrently with deficits in adaptive behavior that manifested in the developmental period (before the age of 18 years, ~~for mental retardation~~). See also 580-5-30-.13(1)(g).

2. Community-based services, both generic and specialized, can not afford the person adequate and appropriate services for habilitation.

3. Residence in a state-operated developmental center is the least restrictive environment adequate for the person's habilitation at the time.

4. In order for an individual to be admitted to ICF/MR Active Treatment Services the individual must meet the criteria stated in #1 through #3 above. Additionally, the individual will benefit from specialized or generic teaching, participation training, treatment, health and related services in three or more of the following areas of life activity: Self-care, Receptive and Expressive Language, Learning, Self Direction, Mobility, and Capacity for Independent Living. These services are directed towards:

(i) the acquisition of behaviors necessary for the individual to live-function with as much self-determination and independence as capable; and/or

(ii) the prevention of regression or loss of current optimal skills and abilities ~~functional status~~.

(b) Respite Care Admission - This is a temporary, short-term (less than 30 days) admission of an individual from a family home who meets service criteria to provide the primary caregiver a period of respite from their responsibilities.

(c) Crisis Stabilization Admission - This is a temporary, short-term (less than 30 days) admission of an individual who meets service criteria and who is experiencing difficulties in social adjustment, or is in behavioral/psychiatric crisis, or has medical care needs when there is no alternative option for residential and treatment supports and interventions otherwise available at the time in their current community setting. If the projected length of stay is beyond 30 days, the individual will be admitted placed on 30-day evaluation status.

(d) The Regional Community Services (RCS) office for the catchment area where the person resides must assure that all community residential options are exhausted and the individual's needs cannot be met by existing community services prior to a person being referred or considered for admission to the state-operated developmental center.

(e) Requests and supporting documents for consideration of admission of an individual for evaluation, crisis stabilization, or respite care are forwarded to the Director of the state-operated developmental center Region II-West RCS office by the designated RCS office as requested by and with the consent of the legal guardian or other responsible person or agency.

**Author:** Division of Developmental Disabilities Mental Retardation, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

(1) All Intellectual Disabilities ~~mental-retardation~~ services will be provided in accordance with the DMH/MR standards and other federal funding source guidelines such as Title XIX, ~~MR/DD~~ Home and Community Based Waiver Services, Alabama Living at Home Waiver Services, Community Standards for Services for Persons with Intellectual Disabilities ~~Mental Retardation~~, and the Intellectual Disabilities Act. Appropriate certifications will be maintained in accordance with applicable standards.

(2) Federal and state guidelines, statutes, and rules will be observed to effect maximum intra- and inter-agency cooperation and coordination of service.

**Author:** Division of Developmental Disabilities ~~Mental Retardation~~, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.04 Record Management.** The State-operated developmental center and community service providers will maintain records on all individuals receiving services and/or supports in accordance with DMH/MR standards and appropriate federal funding sources such as Title XIX, ~~MR/DD~~ Home and Community Based Waiver Services, Alabama Living at Home Waiver Services, Community Standards for Services for Persons with Intellectual Disabilities ~~Mental Retardation~~, and the Intellectual Disabilities Act. Individual case records will be maintained in a confidential manner and will contain accurate and timely documentation of service planning and delivery.

**Author:** Division of Developmental Disabilities ~~Mental Retardation~~, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.05 Abuse/Neglect/Exploitation.** The Division of Intellectual Disabilities ~~Mental Retardation~~ preserves the safety, protection, and well-being of all individuals receiving services in the state-operated developmental center and through its certified community agencies, and will take appropriate action on any mistreatment, neglect, abuse or exploitation of those individuals.



(1) The DMH/MR and the Division of Mental Retardation prohibits abuse, neglect, mistreatment and exploitation of individuals served, and procedures for investigating and reporting such incidents, for taking disciplinary and corrective actions, and for filing criminal charges against any DMH/MR employee that violates DMH/MR policies related to abuse and neglect of individuals.

(2) The DDD ~~Division of Mental Retardation~~ maintains a Community Incident Prevention and Management Plan that provides guidance for community agencies/providers for the implementation of an incident prevention and management system to protect individuals from potential harm, and those agencies are required to implement this Plan as a part of their DMH/MR certification requirements.

**Author:** Division of Developmental Disabilities ~~Mental Retardation~~, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.06** Service System. The DDDMR through its ~~Mental Retardation~~-service delivery system, will provide residents of Alabama who have Intellectual Disabilities ~~mental retardation~~ a systematic method of entry into its service delivery system. This system, with appointed responsibilities for DDDMR staff, 310 agencies, and other providers, encompasses screening and intake, comprehensive needs assessment, case referral, case management, eligibility determinations and redeterminations, ~~choice between facility-based or community-based services,~~ assurance of choice of providers, direct services and supports, and the reassessment of needs of individuals with Intellectual Disabilities ~~mental retardation~~ for the review and revision of service and support priorities, plans and

**Author:** Division of Developmental Disabilities ~~Mental Retardation~~, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.07** Reserved. (Repealed)

**Author:** Division of Developmental Disabilities Mental Retardation, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Repealed: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.08     Community Placement.**

(1)            The ~~DDD Division of Mental Retardation~~ will assist in locating, developing, and/or administering alternative community residential and day/work program placements and supports. Placements will be made according to each individual's specific needs, choices and desires, and will progress from less independent to more independent environments. Placements and supports will be compatible with the client's age, abilities functional level, medical and developmental needs and desires, and will be such that the individual client functions with the maximum degree of independence and self-determination according to his/her particular capabilities. The goal of providing services and supports to individuals with intellectual disabilities ~~mental retardation~~ is to provide inclusive community living options, transition outcomes, and employment for individuals that achieve full integration and inclusion in society in a manner consistent with the strengths, resources, and capabilities for each individual.

(2)            The ~~DDD Division of Mental Retardation~~ provides for the discharge of individuals from the state-operated developmental center in accordance with the desires of the individual and/or their family/~~or~~guardian/advocate, or when supports and services in the ~~residence in a developmental center~~ is no longer appropriate to meet the individual's needs or desires.

(a)            Individuals discharged from the a-developmental center are provided with supports identified as necessary and/or appropriate to ensure a successful transition to more independent living, and to ensure that continuing needs are met.

(b)            All discharges from the developmental center Center, including placement resource development and the placement planning process, are coordinated in conjunction with the individual, their family/guardian/advocate, developmental center staff, regional community services office staff, and the community provider selected by the individual and/or guardian.

(c) Discharge Planning must include a Personal Outcomes Measures interview to determine the choices and desires of the individual. The interdisciplinary team, including a representative from the regional community services office, will meet with the individual and their family/guardian/advocate to discuss outplacement plans and to identify a preferred provider, ~~if applicable~~, who will be able to meet the desires and needs of the individual.

(d) A referral for case management services for the individual, ~~if applicable~~, is made to the responsible agency (or the choice of agencies, if applicable, selected by the individual/family/advocate) at least thirty (30) days prior to discharge.

(e) Regional community services staff oversee the transition and service needs of individuals discharged from the Center for an indefinite period of time, based on the needs of the consumer, but at least for One Hundred Eighty (180) days (6 months) post-discharge.

(3) Individuals Consumers, their families and the Residential and Community Services staff will coordinate all placement and discharge decisions to include all proper notifications and adequate preparations for community placements. Impasses will be resolved by the DMH/MR Associate Commissioner for Developmental Disabilities Mental Retardation.

**Author:** Division of Developmental Disabilities Mental Retardation, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.09 Mental Retardation Intellectual Disability Community Programs.**

(1) Community Services will assist to coordinate the provision of services and supports for each person qualified for services according to their specific needs and desires. Efforts will be directed toward providing supportive services to individuals and families and developing an array of community alternatives to discourage institutional care.

(2) To promote maximum competency by agency staff in the provision of care, services and supports to individuals, the ~~DDD Division of Mental Retardation~~ will work cooperatively with service providers on an on-going basis to assess staff training needs and develop resources to meet those needs.

**Author:** Division of Developmental Disabilities ~~Mental Retardation~~, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

#### 580-5-30-.10 Contracted Services.

(1) The DMH/MR contracts directly with public and private agencies and with individual service providers. Contracts adhere to the provisions of Alabama Act 881 and with Act 310.

(2) Services that ~~which~~ are contracted through the Department are monitored and evaluated by various departments and offices governing the contract funding source. However, it is the responsibility of the ~~DDD Division of Mental Retardation~~ and the Regional Community Services Offices to monitor contracted services to assure that clients receive appropriate care, supervision and treatment. This monitoring and technical assistance responsibility will be on-going, but will include at least annual on-site reviews by qualified professionals.

(3) The purpose of the certification site visit will be to assure that the provider is practicing sound management, providing quality services to individuals, and fulfilling the terms of the DMH/MR contract and DMR Community Standards for Services to Persons with Intellectual Disabilities ~~Mental Retardation~~. Emphasis will be placed on the safety and well-being of the individuals served, monitoring the delivery of services and supports as identified in the person-centered plan, and ensuring that documentation and other record keeping tools, including but not limited to progress notes, data sheets, personnel files and operational procedures, substantiate a systematic approach to the delivery of quality services and supports to individuals.

**Author:** Division of Developmental Disabilities ~~Mental Retardation~~, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** Amended: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.11 Research.** The Division of Developmental Disabilities ~~Mental Retardation~~ supports research that will contribute to the advancement of knowledge about the nature and causes of intellectual disabilities ~~mental-retardation~~ and intervention techniques related to intellectual disabilities ~~mental-retardation~~. Each individual's rights and well-being will be protected during and after any such research project and will comply with all DMH/MR policies related to research. Research to be conducted within the DDD Division of Mental Retardation will require the approval of the Associate Commissioner for Developmental Disabilities ~~Mental Retardation~~.

**Author:** Division of Developmental Disabilities ~~Mental Retardation~~, DMH/MR

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** New Rule: Filed February 4, 2005; effective March 11, 2005. Amended: Filed October 19, 2011;

**580-5-30-.12 Program Enrollment/Participation in DMH Medicaid Waiver Programs.** Agencies/providers that participate in the Medicaid Waiver programs for financial compensation must be enrolled as a provider of services to persons with intellectual disabilities, must be certified by the Department of Mental Health(DMH), and must be under contract or sub contract with the DMH. Certification does not guarantee a contract will be approved by DMH. Monitoring of waiver services by DMH is required to meet federal funding requirements and to protect the Medicaid funding source. This monitoring is conducted by DMH in accordance with DMH regulations.

Agency/Provider Enrollment in the Medicaid Home and Community Based Waiver Program for Persons with Intellectual Disabilities(ID Waiver Program) and/or the Medicaid Home and Community Based Living at Home Waiver (LAH Waiver Program) requires the following:

(1) The agency/provider must be certified by DMH.

(2) The agency/provider must contract with DMH or subcontract with a DMH contractor.

(3) The agency/provider must provide to DMH the services it proposes to provide and numbers of individuals it proposes to

serve if DMH approves a contract with the agency/provider. The DMH fee-for-service reimbursement system requires each agency/provider to comply with the established reimbursement rates for each specific service/support delivered to consumers.

(4) Each contracting provider agency shall acquire a National Provider Indicator (NPI) as required by HIPAA. The Department will register the provider agency's NPI with the Medicaid Fiscal Agent, which will issue a performing provider number for each program in which the provider agency becomes enrolled. Each agency/provider will be assigned a license to access DMH electronic billing and payment system known as AIDDIS. This access will allow the license holder to bill the DMH, which will then approve, deny or suspend the claim prior to submitting it to EDS or paying it directly.

(5) Individuals enrolled in either of the Waiver programs also receive case management from a qualified case management agency. The case manager serves as an advocate and additional resource for the individual.

(6) All individuals, along with their family or guardian, served under either of the two Waivers must be given free choice among qualified providers as to who is going to provide each waiver service.

(7) Each individual in either of the two waivers must have a plan of care which specifies the services and the number of units of service which he or she is expected to receive.

**Author:** Division of Developmental Disabilities, DMH

**Statutory Authority:** Code of Alabama 1975, §22-50-11.

**History:** New Rule: October 19, 2011.

**580-5-30-.13 Eligibility and Level of Care Determinations for Medicaid Waiver Programs.** The Alabama Medicaid Agency designates the DMH as the entity authorized to determine individuals' eligibility for participation in the Medicaid Home and Community-based (HCBS) Waiver for persons with Intellectual Disabilities (ID Waiver) and for the Alabama Living at Home Waiver (LAH Waiver). Within the DMH, the oversight and monitoring of day to day operations of the Waiver programs are conducted by the Division of Intellectual Disabilities through its Central Office and its Regional Community Service Offices. Information for eligibility determinations of individuals with intellectual disabilities for enrollment and continued participation in either of these two programs must be submitted

by the designated case management agency to the designated DMH Regional Community Service Office.

(1) Definitions:

(a) ICAP (Inventory for Client and Agency Planning) - The standard functional assessment instrument used in the process of determining eligibility for the waiver programs. This commercial product will produce a three page summary report known as the Compuscore. An eligibility assessment within the Alabama Division of Developmental Disabilities Information System (AIDDIS) summarizes key information from the ICAP Compuscore, from which the regional office can determine the person's level of care.

(b) Level of Care Evaluation (LOC) - The form required by the Waiver Programs to document that the applicant would otherwise be eligible for and require the level of care provided in an ICF facility.

(c) Designated Case Management Agency - The agency designated by DMH in each county or group of counties responsible for submitting applications and information regarding individuals waiting for services.

(d) Criticality Summary - The assessment tool created by the Department to evaluate the criticality of a person's need for services. The assessment is to be conducted by case managers with the Designated Case Management Agencies, and then submitted to the Department electronically within the AIDDIS system for scoring.

(e) Intellectual Disability - A preferred term for Mental Retardation. The use of this preferred term in the present context carries exactly the same clinical specifications that have been used to define Mental Retardation in the policies, programs and regulations of the Department in the past.

(f) AIDDIS - The web based management information system operated by the Division of Developmental Disabilities. The acronym stands for the Alabama Division of Developmental Disabilities Information System. This system has previously been known as MRSIS.

(g) Qualifying Psychological Evaluation - A psychological evaluation administered and interpreted by a qualified individual on or after the eighteenth (18)<sup>th</sup> birthday for an adult and within three (3) years of the date of application for

a child less than eighteen (18) years of age. The most recent school-administered psychological evaluation may be used to meet this requirement for a child. In order for the submitted psychological evaluation to qualify the individual for the waivers, it must show significant problems in at least two adaptive functioning subscales, not including that of learning, must document a full scale IQ score below seventy (70) and must demonstrate or be accompanied by proof that the individual's intellectual disability had an onset before the age of eighteen (18). In addition, if other Developmental evaluations have been administered to the individual, none of them should document a full scale IQ score of seventy (70) or above. The highest score on any Developmental evaluation administered will be the score that DMH may consider as valid. Furthermore, the primary cause(s) of the impaired functioning or the full scale IQ score less than seventy (70) shall not be the presence of mental illness or the result of external factors such as heavy medication or stress. All the conditions above are necessary for the submitted evaluation to be considered a qualifying psychological evaluation.

(2) Eligibility for the Waiver - Medicaid Home and Community Based Waivers are approved only as cost effective alternatives to institutional care that would otherwise be reimbursed by the Medicaid Program. This means that applicants must be determined to be eligible for that institutional care, and predictably likely to actually need that care in the absence of the service or services under the waiver. The waivers operated by DMH are alternatives to a Medicaid reimbursed Intermediate Care Facility or ICF.

(a) In Alabama, eligibility for the waiver is determined in three steps. In the first step, preliminary eligibility is determined so an individual's name can be added to a statewide waiting list. The second step occurs when the individual can be reached on the waiting list and it becomes his or her turn to be enrolled in the waiver. The third step occurs when the individual has been receiving services for a period no longer than one year and his or her eligibility must be re-determined. Re-determination is required annually for as long as the person receives services under the waiver.

(b) In the first step, clinical evidence must be presented that the individual has a current diagnosis of an intellectual disability, that he or she had this diagnosis before the age of 18 years, and that he or she has significant problems in at least two (2) of six (6) areas of life activities, not including



that of learning, as measured on the ICAP. In addition, there must not be any evidence that the individual will not be able to establish Medicaid financial eligibility for the waiver. The documentation required by the Regional Office to make the clinical determination follows:

1. A qualifying psychological evaluation.
2. The proof that an individual had a diagnosis of intellectual disability prior to age eighteen (18) is a qualifying psychological evaluation administered before the individual reached that age. In instances where the individual never had an evaluation prior to age eighteen (18) but there is substantial corollary evidence from school or social or developmental history that the person does meet this requirement, the Department may approve an exception.
3. An ICAP Compuscore report, completed within ninety (90) days prior to the application to be added to the waiting list.
4. A criticality assessment completed within ninety (90) days prior to the application.

(c) Submission of required forms for enrollment in the waiver, and determination by the Regional Office that, but for the service(s) of the waiver, the individual would otherwise require the level of care provided in an ICF within the next 30 days is necessary. The individual has or can obtain Medicaid financial eligibility. The forms which are submitted to the Regional Office, either hardcopy or through AIDDIS, are:

1. A Summary of Habilitation form may be completed and submitted electronically through the AIDDIS system.
2. A Free Choice of Provider form, signed by the individual and/or family member or legal guardian, substantiating the person's free choice of providers in the county of service. This document can be scanned into a computer and attached to the individual's AIDDIS record as a note.
3. A Dissatisfaction of Service form (Notification of due process rights), which is signed, then can be scanned into a computer and attached to the individual's AIDDIS record as a note.

4. The Plan of Care, which can be completed within AIDDIS, signed, then scanned into a computer and attached to the individual's AIDDIS record as a note.

(d) Re-determination requires the submission of:

1. A new eligibility assessment, updating any new information that may come from an ICAP or qualifying psychological evaluation.

2. A Summary of Habilitation form specific to the new period of eligibility being requested, as described in subparagraph (c)(1) above.

3. The Plan of Care, specific to the new period of eligibility being requested, as described in subparagraph (c)(4) above.

4. A Free Choice of Provider form, signed by the individual, and/or family member or legal guardian, substantiating the consumer's free choice of providers in the county of service, or the choice of different providers.

(3) The Waiting List - The DMH maintains a statewide waiting list of persons applying for services through either of the Medicaid waiver programs it administers under delegation of authority from the Alabama Medicaid Agency. Application to be placed on the waiting list requires a determination of preliminary eligibility, as described in paragraph (2)(b) above. The DMH will not, knowingly, add a person to the waiting list if there is any indication that that person, once enrollment in a waiver program becomes available, will not be eligible. To the extent possible, information submitted to qualify an applicant for the waiting list is not required to be re-submitted when the person is reached on the waiting list and the waiver application needs to be submitted. The following process is required to be placed on the waiting list:

(a) Initial Contact: Applicants call the DMH using a toll-free number to begin the application process. Information is taken during this telephone interview and a referral is made either that same day or the next business day following to the designated case management agency responsible for the county in which the applicant resides.

(b) Referral Processing: Upon receipt of the referral from the DMH, the designated case management agency assigns a case

manager or intake worker to make contact with the applicant and/or applicant's family. The case managers/intake coordinators administer an ICAP and a Criticality Summary and gather and/or prepare additional information needed to document the person's eligibility for the waiver program.

(c) Submission of Referral: The case management agency submits the following information to the Regional Community Service Office, which reviews the information and if approved, enters the person on the waiting list.

1. A qualifying psychological evaluation as defined in paragraph (1)(g);

2. Proof that the applicant had a diagnosis of Developmental disability prior to age eighteen (18);

3. A developmental summary, to assist in determining eligibility, including assuring the onset of an Developmental disability before the age of eighteen (18), completed within ninety (90) days prior to the application;

4. An eligibility assessment within the AIDDIS system, summarizing key information from the ICAP Compuscore, from which the regional office can determine the person's level of care. The ICAP which produced the Compuscore is completed within ninety (90) days preceding the application to be added to the waiting list and meets the definition in paragraph (1)(a);and

5. A criticality assessment completed within ninety (90) days preceding the application.

(d) The date of application is the date a complete packet is received at the Regional Community Service Office, or the date a complete electronic application appears on either the NEW or UPDATE work queue in the AIDDIS system. The Regional Community Service Office pends the application and informs the case management agency of any additional information needed. The date of application then becomes the date that information is supplied and the application is approved.

(e) All eligible applicants for the waiver programs are added to the statewide waiting list.

(f) An applicant, all of whose needs for service fall within the long term planning category of need on the Division's

Criticality Assessment, may not be entered on the waiting list prior to the age of fourteen (14) years.

(g) The waiting list is sorted by criticality summary score and by length of time waiting, and a rank is established for each person waiting, with number one being the rank with the most need.

(h) Rank is reestablished whenever a criticality summary is added or changed to accommodate new applicants and persons with changing conditions, as determined by criticality scores.

(i) New state funding for the waiting list is allocated to the highest priority needs statewide.

(4) Initial Enrollment in a Waiver Program - When a person from the waiting list can be admitted to either of the two Waiver Programs, all forms required by the DMH and the Alabama Medicaid Agency are completed accurately and in a timely manner by the case management agency. The designated case management agency submits the required forms and in addition, the following required diagnostic and evaluation reports or summaries, unless previously submitted to qualify the individual for the waiting list, as noted in the paragraphs below:

(a) A copy of a qualifying psychological assessment. If the applicant is currently less than eighteen (18) years of age, a previously submitted psychological is adequate only if it was administered within three (3) years prior to the current application date.

(b) Information from an ICAP administered within ninety (90) days prior to the date of waiver application. The ICAP Compuscore report is required. Other assessments such as the Vineland or Adaptive Behavior Scale (ABS) may be used to supplement the information provided by the ICAP.

(c) A copy of a physical examination performed and signed by a licensed physician or a certified registered nurse practitioner, or a medical summary or physical assessment performed by a registered nurse, where the examination or assessment was conducted within three hundred sixty five (365) days prior to entry to the waiver and describes the medical status of the individual.

(d) A social development summary completed within ninety (90) days prior to waiver application.

(e) Other professional evaluations as necessary to support the individual's application for an ICF level of care.

(5) Annual Eligibility Re-determinations - The case management agency submits the following required reports, assessments or summary statements:

(a) The case manager completes a new eligibility assessment, a new Plan of Care, and Summary of Habilitation covering the new period of eligibility.

(b) For an adult, the qualifying psychological evaluation from which the eligibility criterion of developmental disability was established is valid until the original evaluation is challenged, a condition changes, and/or a new evaluation is completed. The case manager submits a copy of the psychological assessment only if it is new or is requested by the Regional Community Services Office.

(c) For a child, the Eligibility Assessment must reflect the most recent qualifying psychological evaluation results. That evaluation must be no more than three years prior to the redetermination application date. Exception: If the most recent IQ test was performed more than three years prior to the redetermination date and the current school IEP team has determined and documented that the resulting IQ test score remains accurate, the date of the IEP meeting at which this determination was made will be acceptable in the Eligibility Assessment. The case manager documents through a note and copy of the IEP that the child's test scores were reviewed and continue to be an accurate reflection of the child's Developmental functioning.

(d) A copy of an ICAP administered within the previous twenty four (24) months (2 years) including a notation that the assessment has been reviewed and that all information remains the same. If information has changed, a new ICAP must be administered.

(e) A statement summarizing any changes that may have occurred in the individual's health status since the previous Level of Care determination.

(f) A statement summarizing any social or financial changes that have occurred with the individual, family or caregivers since the previous Level of Care determination.

(g) Free choice of provider form if the person will be changing provider(s) or receiving new services from any provider.

(6) Applications for supported employment under the waiver require the applicant to obtain a letter from the Alabama Department of Rehabilitation Services (ADRS) certifying that the person is either not eligible for employment services through that agency or that ADRS has provided services to the individual and since closed their case. Individuals who are eligible for service through ADRS are not eligible for employment related services through the HCB Waiver until they have exhausted their ADRS benefits.

(7) The designated case management agency for each county/area serves as the point of entry for waiver applications. The designated case management agency collects necessary documentation and files the application with the Regional Community Service Office. The Regional Community Service Office processes all complete waiver applications to either determine a person ineligible for the waiver or eligible but placed on a waiting list. Subsequent enrollment in one of the waivers depends on criticality of need, availability of resources, and space within the waiver caps on the number who can be served.

(8) The LAH Waiver Program has the following requirements in addition to the necessity of meeting the DD Waiver Program requirements.

(a) The Living at Home Waiver serves people who already have a place to live but need supports to maintain that living arrangement.

(b) The Living at Home Waiver has expenditure limits, not inclusive of crisis intervention costs. People who are expected to need more funding than the current limit are not admitted to the Living at Home Waiver.

(c) Eligibility determination requires the same information as required for the DD Waiver Program.

**Author:** Division of Developmental Disabilities, DMH

**Statutory Authority:** Code of Alabama 1975, §22-50-11.

History: New Rule: October 19, 2011.

**580-5-30-.14 Free Choice of Providers within DMH Medicaid Waiver Programs.** The Division of Developmental Disabilities shall assure that each individual and their family/guardian are given a free choice of individuals or entities from which to receive services. Free choice of provider is an essential right of individuals and their families as required by federal Medicaid regulations and is upheld by the case management agency.

(1) The designated case management agency serving each county shall ensure that individuals and their family are provided with adequate information about all providers of services from which to base their choice(s), and that their choice is unhindered by coercion or manipulation arising from conflict of interest.

(2) A Free Choice of Provider form, signed by the individual and/or his family/guardian after being provided with information about all potential providers of services/supports, is required to be completed for each initial application submitted by the agency/provider.

(3) Regional Community Service Offices shall monitor the free choice of provider provisions, shall accept appeals, and shall investigate complaints regarding free choice.

(4) Changing providers requires a meeting of the person's interdisciplinary team. If the person and the team do not agree, the person or the person's family/guardian may appeal in writing to the Regional Community Service Office for a change of service providers.

(5) If an individual and/or his family/guardian opt to change service providers, an orderly transition of the contractual arrangements must be made. State funding shall follow the individual to his/her new service provider unless there is evidence that individuals and/or families have been or are being solicited or pressured to change providers. In this instance, DMH reserves the right to not transfer the funds to the receiving provider.

**Author:** Division of Developmental Disabilities, DMH

**Statutory Authority:** Code of Ala. 1975, §22-50-11.

**History:** New rule: October 19, 2011.